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Office of The Ombudsman, Hong Kong



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Direct Investigation Report

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Leisure and Cultural Services Department's Regulation of Public Coaching Activities at Public Swimming Pools

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Executive Summary
Direct Investigation Report

Leisure and Cultural Services Department's Regulation of Public Coaching Activities at Public Swimming Pools

Introduction

The Public Swimming Pools Regulation ("the Regulation") stipulates that no person, within a swimming pool or the precincts thereof, shall do any act which is likely to endanger, obstruct, inconvenience or annoy any person. In order to promote swimming and ensure water safety, the Leisure and Cultural Services Department ("LCSD") generally allows coaching activities (including coaching by private tutors or family and friends) at the public swimming pools under its management. Such activities must be carried out in an orderly manner without causing nuisance to other swimmers. Otherwise, the Department would take enforcement action in accordance with the Regulation.

2. Nevertheless, views and complaints we received from the public indicated that some individual or group coaching activities at public swimming pools had caused nuisance to other swimmers. The problem had persisted due to ineffective regulation by LCSD.

3. LCSD has designated "public coaching area" at nine public swimming pools, and all coaching activities are confined to such area. The aim is to separate different types of swimmers so as to reduce conflicts among them.

Our Findings

4. We agree with LCSD's viewpoint that coaching activities help promote swimming, and there is a practical need for members of the public to learn swimming at public swimming pools.

Permitting coaching activities at public swimming pools is congruent with LCSD's objective and duty of promoting swimming as a sport. Yet, LCSD's records show that complaint cases relating to nuisance caused by public coaching activities have been on the rise since 2016. Apparently, the problem has persisted.

5. In short, this Office considers that there are three areas for improvement in LCSD's regulation of public coaching activities at public swimming pools.

(I) Need for a Uniform Policy and Mechanism for Designation of "Public Coaching Areas"

6. LCSD has emphasised that so long as the coaching activities at public swimming pools are orderly and not causing nuisance to other swimmers, they would be permitted regardless of whether they are fee-charging or not. For public swimming pools without a "public coaching area", however, LCSD has refrained from explicitly permitting coaching activities to be carried out in an orderly manner at the "public swimming area". This would likely be construed by other swimmers as lax enforcement on the part of LCSD, leading to misunderstanding and even more complaints.

7. Although LCSD has taken enforcement actions against public coaching activities that caused nuisance or obstruction to others, these actions were mainly issuing verbal advice and there was not even a single prosecution. Meanwhile, the number of complaints relating to public coaching activities has shown an upward trend. We consider that solely relying on the pool staff to enforce the Regulation has shown to be ineffective in improving the situation and it would only perpetuate the problem.

8. We opine that LCSD should proactively consider separating those swimmers engaged in coaching activities from general swimmers by designating "public coaching areas". In fact, public swimming pools with a "public coaching area" have recorded an obviously smaller increase in complaints about public coaching activities than those pools without one. Both the Kennedy Town

Swimming Pool and the Kwun Tong Swimming Pool saw a decrease in such complaints since the designation of a "public coaching area" in 2019. Evidently, designating a "public coaching area" has helped to balance the needs of different swimmers.

9. LCSD does not have a uniform policy and mechanism regarding the designation of "public coaching areas". As a result, decisions on designation or otherwise of such areas in swimming pools are largely left to the officers-in-charge of individual districts/swimming pools. The public can hardly know the justifications behind the decisions which may lead to doubts.

10. We consider that LCSD should seriously contemplate drawing up a uniform and specific policy and mechanism regarding the designation of "public coaching areas". In addition, coaching activities (including fee-charging coaching lessons and coaching given by family and friends) should be confined to the "public coaching areas", in order to separate different types of pool users.

11. LCSD should also consider designating a "public coaching area" at public swimming pools where coaching activities are more frequent, or at specific public swimming pools in each district on a trial basis. Announcement and publicity should be made on the arrangement. Besides, when planning the construction or redevelopment of public swimming pools, LCSD should proactively assess the need for a "public coaching area" at the swimming pools or in the districts involved, such that early preparations can be made.

(II) Need for More Rigorous Management of "Public Coaching Areas"

12. At swimming pools with a "public coaching area", the pool staff would require all coaching activities to be carried out in the designated area. However, LCSD has not formulated specific management measures for regulating coaching activities in that

area so as to ensure that they would be carried out in an orderly manner.

13. Upon our declaration to initiate this direct investigation, quite a lot of public views we received indicated that LCSD should step up its management of "public coaching areas" (e.g. restricting the number of learners for each coach at any one time) to make sure that coaching activities would be well-ordered.

14. We consider that LCSD should lay down specific conditions of use for "public coaching areas". For example, it can impose a maximum on the number of users, restrict the coach-learner ratio for each coaching session. This would help to maintain the order at "public coaching areas".

(III) Need for More Proactive Collection and Analysis of Data on Public Coaching Activities

15. LCSD currently does not keep record or conduct analysis on coaching activities at public swimming pools in a systematic way. Absence of accurate data would hamper the Department's assessment of whether and how to designate a "public coaching area" at individual swimming pools and its formulation of appropriate conditions of use.

16. We consider that LCSD should be more proactive in the collection and analysis of data relating to public coaching activities at public swimming pools, including the peak periods of such activities, number of participants, pool facilities most frequently used and the modes of coaching activities, etc. so that pool staff can record and review public coaching activities.

Concluding Remarks

17. Given the limited resources in public swimming pools, designation of a "public coaching area" would inevitably reduce the

space available to swimmers. While many people have a genuine need for public swimming pools in order to learn swimming, the complaints and public views we received reflect that a lot of pool users found coaching activities annoying. Hence, if these two types of swimmers are not separated, it would just perpetuate their conflict.

18. Under the current mechanism, only groups can apply to LCSD for hiring swimming lanes. Private coaches, therefore, can only conduct coaching lessons at "public swimming areas". Designation of "public coaching areas", in our opinion, can fill this gap under the current mechanism so that public coaching activities can be carried out in an orderly manner. In the long run, LCSD should examine the number and distribution of "group hiring areas", "public coaching areas" and "public swimming areas", with a view to setting and adjusting a proper balance to cater for the needs of different swimmers.

Recommendations

19. In the light of the above, The Ombudsman makes the following recommendations to LCSD:

(1) to formulate a uniform and specific policy and mechanism regarding the designation of "public coaching areas", and confine coaching activities to such area upon designation in swimming pools for separating different types of pool users;

(2) to study proactively the feasibility of designating a "public coaching area" at more public swimming pools (including newly constructed or redeveloped ones);

(3) to strengthen the management of "public coaching areas" and formulate specific conditions for using those areas for coaching activities; and

(4) to step up the collection and analysis of data relating to public coaching activities at public swimming pools to facilitate the formulation of a policy and mechanism regarding the designation of “public coaching areas”, as well as management measures for those areas.

Office of The Ombudsman
July 2020

1

INTRODUCTION

BACKGROUND

1.1 According to section 4(c) of the Public Swimming Pools Regulation (Cap 132BR, “the Regulation”), no person, within a swimming pool or the precincts thereof, shall do any act which is likely to endanger, obstruct, inconvenience or annoy any person. To promote swimming as a sport and enhance water safety, the Leisure and Cultural Services Department (“LCSD”) generally allows swimmers to engage in coaching activities at the public swimming pools under its management so long as such activities are carried out in an orderly manner, not causing nuisance to other swimmers. LCSD would take regulatory action pursuant to the aforesaid Regulation against coaching activities found otherwise. The aim is to maintain order at public swimming pools.

1.2 Nevertheless, when we invited public views in respect of another direct investigation regarding the allocation of swimming lanes in public swimming pools and its monitoring mechanism, a lot of people commented that the private or group coaching activities of some swimmers at public swimming pools had caused nuisance to others. LCSD, however, could not regulate effectively and the problem had persisted. In fact, this Office had also received similar public complaints from time to time.

1.3 Against this background, The Ombudsman declared a direct investigation against LCSD on 14 November 2019, pursuant to section 7(1)(a)(ii) of The Ombudsman Ordinance, to examine LCSD’s regulation of public coaching activities at public swimming pools and the effectiveness of its regulatory action, with a view to identifying room for improvement.

SCOPE OF INVESTIGATION

1.4 This direct investigation covers:

- whether LCSD's mechanism and procedures for regulating coaching activities at public swimming pools are proper;
- whether LCSD's mechanism for designating "public coaching areas" in order to regulate coaching activities at public swimming pools is adequate; and
- room for improvement.

PROCESS OF INVESTIGATION

1.5 In the course of this direct investigation, this Office has:

- examined legislation relating to the regulation of coaching activities at public swimming pools;
- assessed LCSD's mechanism and procedures for regulating coaching activities at public swimming pools;
- evaluated the current situation regarding coaching activities at public swimming pools, the mechanism for designating "public coaching areas" at public swimming pools in order to regulate coaching activities, as well as the effectiveness of the mechanism;
- invited public views; and
- revisited the complaints we have received.

1.6 On 16 April 2020, we issued the draft investigation report to LCSD for comments, and received its reply on 5 June. This final report, incorporating the Department's comments as appropriate, was completed on 7 July 2020.

2

MECHANISM FOR REGULATING COACHING ACTIVITIES AT PUBLIC SWIMMING POOLS AND RELEVANT LEGISLATION

ROLE OF PUBLIC SWIMMING POOLS

2.1 LCSD manages a total of 44 public swimming pools. Among them, the Wan Chai Swimming Pool is designated for group hiring only, while the Jockey Club Yan Oi Tong Swimming Pool and the Sheung Shui Swimming Pool are provided with leisure pools only. The remaining 41 public swimming pools vary in the number, type and size of their pools, as well as the number of swimming lanes. Their uses and utilisation are also different.

2.2 LCSD said that public swimming pools have multiple roles and have to cater for the needs of different users, who use swimming pools for different or even conflicting needs:

(a) for hosting school, inter-school, regional or even international swimming competitions and activities;

(b) for conducting systematic swimming classes and training courses organised by LCSD, National Sports Associations ("NSAs") and their affiliated clubs, as well as other eligible groups;

(c) for swimming by members of the public, although their swimming skill level, speed and habit vary; and

(d) for members of the public to learn swimming, either with a relative or a private coach.

LCSD's REGULATION OF COACHING ACTIVITIES AT PUBLIC SWIMMING POOLS

Relevant Legislation

2.3 Section 4(c) of the Regulation stipulates that no person, within a swimming pool or the precincts thereof, shall do any act which is likely to endanger, obstruct, inconvenience or annoy any person.

2.4 Besides, section 5 of the Regulation stipulates that no person within the precincts of a swimming pool, except with the written permission of the Director of Leisure and Cultural Services ("the Director"), shall sell or let to hire or offer or expose for sale or letting to hire any article or thing or any personal services or shall beg for alms or solicit gifts or contributions to charity. LCSD explained that section 5 of the Regulation aims at regulating all sales, letting to hire or trading activities within the precincts of public swimming pools.

LCSD's Stance on Invoking the Regulation

2.5 On whether to permit coaching activities at public swimming pools, LCSD is of the view that such activities can help promote swimming, and beginner learners do have a genuine need

to learn swimming at public swimming pools. It is quite common for members of the public to teach their children or friends swimming, or for private coaches to teach swimming at public swimming pools. Prohibiting coaching activities at public swimming pools not only means a failure to cater for the genuine need of the public, but also runs counter to the Department's basic objective of promoting swimming. In this light, LCSD would permit coaching activities at public swimming pools as a means of promoting swimming, so long as such activities (fee-charging or not) are carried out in an orderly manner, not causing nuisance to other swimmers.

2.6 LCSD explained that it is rather difficult for pool staff to tell on the spot whether swimming coaches charge a fee for their lessons or not. A blanket prohibition of coaching activities at public swimming pools would affect and inconvenience those people who teach their relatives or friends to swim.

2.7 Section 5 of the Regulation aims at regulating commercial activities, begging for alms or soliciting contributions to charity within the precincts of swimming pools. The legal advice obtained by LCSD indicated that under section 5 of the Regulation, the Director can give permission to coaching activities to be carried out at designated areas in public swimming pools, regardless of whether they charge a fee or not. However, LCSD must inform swimmers of the arrangements about designated areas for coaching activities by displaying notices at the pool entrance and the pool deck. For any commercial coaching activities found outside the designated areas, LCSD is empowered by section 5 of the Regulation to check whether those activities are commercial in nature. If the coaching activity is causing nuisance to other swimmers, LCSD can take enforcement action under section 4(c) of the Regulation.

2.8 LCSD said that if a coaching activity is found to be causing obstruction or nuisance to other swimmers, pool staff will invoke section 4(c) of the Regulation to advise and require the persons concerned to cease the violation, or order them to leave the

precincts of the pool in case of non-compliance. With sufficient evidence, the duty officer-in-charge of the swimming pool can even consider prosecuting the offenders. LCSD considered it more practicable and pragmatic to strengthen regulation of coaching activities by invoking section 4(c) than by implementing section 5 of the Regulation. It is also more conducive to balancing the needs of different swimmers.

2.9 In sum, LCSD considered that all members of the public (including private swimming coaches) can pay to enter public swimming pools. Under the premises of promoting swimming as a sport and meeting the genuine needs of the community, the Department would normally permit coaching activities at public swimming pools so long as they are well-ordered, not causing nuisance or obstruction to others.

2.10 On the other hand, in pools without a designated "public coaching area", LCSD considers it not advisable to invoke section 5 of the Regulation to formally permit commercial coaching activities at the "public swimming area", lest this should give rise to more misunderstanding and grievances from the public, not to mention the following risks:

(a) it would in effect encourage organisations/individual swimmers to carry out coaching activities at the "public swimming area", instead of hiring swimming lanes to do so;

(b) it may attract unrestrained coaching activities at the "public swimming area", turning the whole area into a *de facto* "public coaching area". This would instead have implications for the order at swimming pools;

(c) enforcement action taken by pool staff under section 4(c) of the Regulation against coaching activities that obstruct or inconvenience other swimmers may be challenged because notices at the pool explicitly state that coaching activities are permitted. This is

detrimental to order management and enforcement work at swimming pools; and

(d) given the dissatisfaction already voiced by individual swimmers against coaching activities, posting notices at the pool indicating permission of such activities by the Director may lead to misunderstanding that LCSD does not regulate those activities, or even lead to severe criticisms and grievances by the general public. Conflicts between participants of coaching activities and other swimmers may intensify. They may incessantly complain against each other.

REGULATORY MECHANISM AND MEASURES FOR MAINTAINING ORDER AT SWIMMING POOLS

2.11 To maintain order at public swimming pools and prevent nuisance to other swimmers caused by coaching activities, LCSD had taken the following diversion and monitoring measures.

Designating Different Swimming Areas

<u>Group Hiring Area</u>

2.12 In order to comprehensively promote all forms of water sports, and to tie in with the policy objectives for the development of water sports, LCSD has put in place procedures and a mechanism for hiring swimming lanes under the premise of equity and in accordance with the needs of various stakeholders. Under the mechanism, the major NSAs and their affiliated clubs, sports clubs, Government departments and schools are accorded specific priority in hiring swimming lanes in public swimming pools to facilitate long-term sports development and training. There are 42 public swimming pools under LCSD's management, in which the main pools, secondary pools, training pools, teaching pools and diving pools are made available for group hiring during specific time periods. To balance and meet the demands of all types of

swimmers, during the hours when the swimming pools are open to the public, a total of not more than four lanes in the main pool and secondary pool of a public swimming pool could be hired by groups at any one time.

Public Lap Swimming Area

2.13 In view of the different skill levels of swimmers, LCSD has designated a "public lap swimming area" in 36 of its public swimming pools to divert proficient swimmers to specific swimming lanes for lap swimming. Coaching activities are prohibited in the area.

Public Coaching Area

2.14 LCSD encourages members of the public to learn swimming, and understands that many would choose to take up private swimming lessons with family, friends or coaches. Upon consultation with the Community Sports Committee under the Sports Commission, LCSD has hence designated a "public coaching area" at individual public swimming pools and confine coaching activities to the designated area. The aim is to divert swimmers to different areas to mitigate the impact of coaching activities on other swimmers and improve the order of public swimming pools, with a view to strengthening the management of coaching activities at public swimming pools.

2.15 At swimming pools with a "public coaching area", coaching activities can only be carried out within the designated area or swimming lanes already hired by groups. Coaching activities of all sorts are prohibited elsewhere in the swimming pools. Coaches who violate this requirement would be advised by the pool's officer-in-charge to go to the "public coaching area" to avoid causing nuisance or obstruction to other swimmers.

2.16 As at 1 September 2019, LCSD has set up a "public coaching area" at nine public swimming pools. Details are in **Chapter 3**.

Public Swimming Area

2.17 "Public swimming areas" generally refer to those swimming areas other than the "group hiring area", "public lap swimming area" and "public coaching area". Any activities inside the public swimming area that cause nuisance or obstruction to other swimmers would be subject to regulatory action by the pool's officer-in-charge pursuant to section 4(c) of the Regulation.

2.18 LCSD puts up notices (see **Annex 1**) at prominent locations in various swimming areas indicating clearly the distribution of the "public coaching area", "group hiring area", "public lap swimming area" and "public swimming area" for swimmers' information about the location, purpose and rules of use of each area. A schematic illustration of the distribution of various swimming areas is at **Annex 2**.

Monitoring Measures

2.19 LCSD indicated that it has been rigorously monitoring coaching activities at public swimming pools, and has provided its frontline staff with detailed guidelines to ensure that all types of swimming activities are carried out in an orderly manner, not causing nuisance to other swimmers. In 2014, it issued guidelines for implementing the Regulation, in particular detailed regulatory procedures for dealing with coaching activities at swimming pools that cause nuisance to other swimmers. The guidelines also remind staff of the legal justifications they should heed when enforcing the Regulation.

2.20 Lifeguards on duty at swimming pool would patrol the pool area and handle cases of breach. In addition, officers-in-charge of all ranks of a swimming pool complex also patrol the venue from time to time to check whether anyone is engaging in activities in breach of the Regulation and keep a close watch on coaching activities. They would take regulatory action where warranted.

2.21 Normally, officers-in-charge of all ranks of a swimming pool

complex would patrol the swimming pools at least twice on every shift. They would make record of the areas patrolled, and of the advice given/follow-up actions taken with respect to breaches of the Regulation. If frequent violations are observed among swimmers or hirers (such as carrying out coaching activities that cause nuisance to other swimmers), the officer-in-charge would increase the frequency of patrol to at least once every hour.

2.22 Furthermore, if pool staff find swimmers being disturbed or receive complaints by swimmers, they would attend the scene immediately to conduct an investigation. Upon confirmation of nuisance or disturbance caused by coaching activities to swimmers, the pool staff will issue a verbal advice and ask the offender to stop the behaviour. If the offender fails to comply, he/she will be asked to leave the precincts of the pool. Where there is sufficient evidence, the pool staff would also consider prosecuting the offenders pursuant to section 4(c) of the Regulation (see **para. 2.3**).

2.23 LCSD will continue to monitor closely the utilisation situation of various swimming pools, and will review the enforcement of relevant guidelines from time to time in order to examine whether the measures for separating different types of swimmers and enhancement measures at individual swimming pools should be stepped up.

3

OVERVIEW OF COACHING ACTIVITIES AT PUBLIC SWIMMING POOLS

OVERVIEW OF COACHING ACTIVITIES AT PUBLIC SWIMMING POOLS

3.1 Given the huge number of patrons of public swimming pools and the various forms that coaching activities may take, LCSD can hardly collect accurate statistics on the number of people engaging in coaching activities during different time periods.

3.2 Nevertheless, pool staff would observe coaching activities at different swimming pools during daily patrols. Based on the collated information of various public swimming pools, LCSD indicated that coaching activities were only sporadically detected in 22 out of 41 public swimming pools (see **para. 2.1**), but were often found in the remaining 19 swimming pools (i.e. almost half of all public swimming pools), including the nine public swimming pools with a designated "public coaching area" (see **para. 3.4**).

3.3 LCSD pointed out that, according to its observations, coaching activities were common during the third session on weekdays (*viz.* the period between evening and night, the actual starting time varies among swimming pools) and on holidays; and more frequent during the second session (*viz.* 1 pm to 5 pm/6

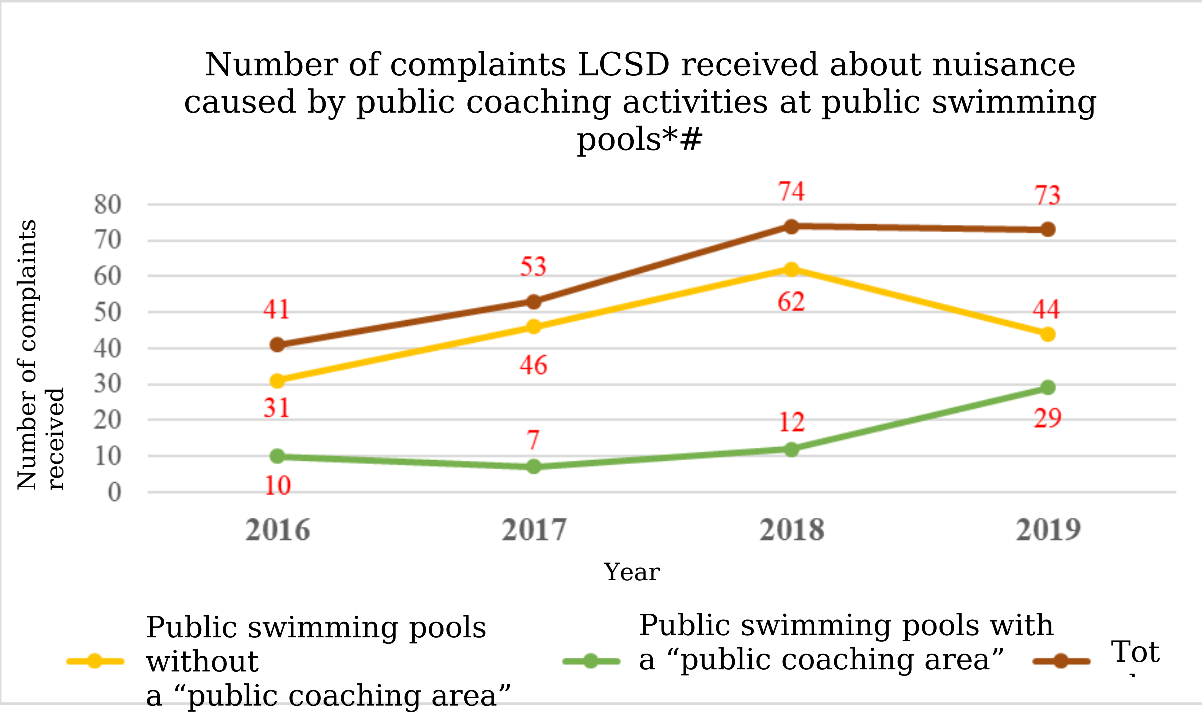
pm/6:30 pm) or the third session on Saturdays and Sundays. Such coaching activities were carried out at the secondary pool, training pool, teaching pool and at swimming pool complexes with an indoor swimming pool. LCSD considered that most coaching activities were well-ordered, not causing nuisance to other pool users.

DESIGNATION AND EFFECTIVENESS OF "PUBLIC COACHING AREAS"

Overview and Analysis on Complaints about Public Coaching Activities

3.4 For the purpose of separating swimmers engaging in coaching activities from other swimmers, LCSD has designated a "public coaching area" at some public swimming pools. As at 1 September 2019, there were nine public swimming pools with such a designated area. They include the Morrison Hill Swimming Pool, the Victoria Park Swimming Pool, the Siu Sai Wan Swimming Pool, the Lai Chi Kok Park Swimming Pool, the Yuen Long Swimming Pool, the Sha Tin Jockey Club Swimming Pool, the Island East Swimming Pool, the Kennedy Town Swimming Pool and the Kwun Tong Swimming Pool. Arrangements for opening these "public coaching areas" for public use are at **Annex 3**.

3.5 In order to assess the effectiveness of setting up "public coaching areas" in regulating coaching activities at public swimming pools, we have asked LCSD to provide the number of complaints about nuisance caused by public coaching activities at public swimming pools between 2016 and 2019.



Number of complaints LCSD received about nuisance caused by public coaching activities at public swimming pools*#

* Under a pilot scheme, a "public coaching area" has been designated in the Kennedy Town Swimming Pool and the Kwun Tong Swimming Pool in April 2019. The complaints received between 2016 and 2018 at these two swimming pools were therefore categorised as public complaints received at public swimming pools without a "public coaching area", while those received in 2019 were categorised as complaints received at pools with a "public coaching area".

\# The figures exclude the Wan Chai Swimming Pool, the Jockey Club Yan Oi Tong Swimming Pool and the Sheung Shui Swimming Pools.

3.6 The above figure shows that between 2016 and 2019, the number of complaints about nuisance caused to other swimmers by public coaching activities saw a rising trend. The rate of increase in such complaints was as high as 100% between 2016 and 2018 at public swimming pools without a "public coaching area", whereas those with a "public coaching area" only recorded a 20% increase in such complaints for the same period.

3.7 In April 2019, LCSD designated a "public coaching area" on a trial basis at the Kennedy Town Swimming Pool and the Kwun Tong Swimming Pool, two public swimming pools which had received more complaints. Following the designation of such an area, these two swimming pools received 2 and 9 complaints respectively, an improvement over 6 and 15 complaints received in

2018 before designation of a "public coaching area". Evidently, designating a "public coaching area" has helped alleviate the nuisance caused by coaching activities to swimmers.

3.8 On the other hand, LCSD had analysed the reasons why there were more complaints about public coaching activities at individual swimming pools:

(a) increase in population at individual districts had resulted in a corresponding increase in the number of patrons at public swimming pools. As swimmers and learner swimmers competed for the limited pool facilities, there would probably be more conflicts, hence more complaints;

(b) in winter, only 26 swimming pools with heated pool facilities are open for public use. As swimmers and learner swimmers shared the limited heated pool facilities, conflicts were more likely. This seasonal phenomenon is particularly evident at pools with both heated pool facilities and a "public coaching area";

(c) some hiring groups or learner swimmers carry out coaching activities at the "public swimming area" instead of in the swimming lanes they had hired or at the "public coaching area". This led to complaints from the general swimmers; and

(d) coaching activities tended to take place during the same sessions, and mostly at the secondary pools, training pools, teaching pools and indoor swimming pools of some swimming pool complexes.

3.9 LCSD's records reveal that a total of 701 verbal warnings was issued against alleged violations of section 4(c) of the Regulation between 2016 and 2019. Among them, 110 were related to coaching activities. Other violations involved swimmers not

wearing suitable swimwear, diving at the shallow zone, or running and chasing within the precincts of swimming pools, etc. LCSD indicated that most swimmers would cooperate and stop the inappropriate behaviour upon advice, so further actions were not warranted. The Department had no record of prosecution involving public coaching activities for the period.

Factors of Consideration and Criteria for Designating "Public Coaching Area"

3.10 LCSD indicated that most public swimming pools only recorded a few or had never recorded any complaints about public coaching activities having caused nuisance to swimmers[1]. Problems relating to nuisance caused by public coaching activities largely took place at certain swimming pools. In this light, LCSD considered it more appropriate to implement a pilot scheme to designate a "public coaching area" at individual swimming pools on a need basis. The way forward would depend on its review of the effectiveness of designating such areas.

3.11 LCSD also mentioned that much fewer complaints about coaching activities were received at swimming pools with a "public coaching area". For example, the Sha Tin Jockey Club Swimming Pool recorded no such complaints during the four years concerned. It may be an indication that designation of a "public coaching area" did help in balancing the needs of different parties to a certain extent.

3.12 In addition, when devising measures for separating swimmers and allocating pool facilities, LCSD must count in the actual circumstances, and deploy strategies suited to individual venues. It would be best to holistically take into consideration the characteristics of each district and each swimming pool, as well as other related factors, including the demographics of a district, the

1 In 2019, there were 19 public swimming pools (one being a pool with a "public coaching area") that had never received any complaints about coaching activities having caused nuisance to swimmers. The Wan Chai Swimming Pool, the Jockey Club Yan Oi Tong Swimming Pool, the Sheung Shui Swimming Pools and the Morse Park Swimming Pool which was closed temporarily due to renovation works were not included.

number, types, supply and demand, sizes, number of swimming lanes available, and water depth of the swimming pools in a district, as well as the major purposes and utilisation of those swimming pools.

3.13 In determining whether to designate a “public coaching area” at individual public swimming pools, LCSD would consider the following:

(a) at swimming pools used mainly as leisure pools (such as the Sheung Shui Swimming Pool), it would not be advisable to designate a “public coaching area”;

(b) there should still be enough space for the general swimmers to swim freely upon designation of a “public coaching area” in the swimming pool concerned; and

(c) whether the ways a swimming pool is being used (including public coaching activities) would affect other swimmers’ enjoyment of the pool facilities.

3.14 LCSD stated that to require the designation of a “public coaching area” at every public swimming pool or at least at one public swimming pool in every district without regard to the general circumstances of swimming pools in the district and the coaching activities at the pools would only reduce the public swimming area, cut the free swimming space of the general swimmers, and even engender complaints.

3.15 LCSD therefore asserted that if a “public coaching area” is set up or other specific measures are introduced on a need basis at suitable swimming pools in accordance with the actual circumstances, the needs of the general swimmers and learner swimmers would be better balanced. This would be more appropriate than establishing a uniform mechanism for designating “public coaching areas” at all swimming pools and confining all coaching activities to those areas.

Examples of Assessment on Whether to Designate a "Public Coaching Area"

3.16 According to LCSD's information, among the nine public swimming pools with a 'public coaching area', the Kennedy Town Swimming Pool was only provided with a "public coaching area" on a trial basis in 2019. Between 2017 and 2019, a total of 14 complaints about nuisance caused by public coaching activities had been received at that pool. LCSD indicated that problems relating to public coaching activities largely occurred at the indoor training pool and the secondary pool during the third session on Mondays to Fridays, and the first and second sessions on Saturdays, Sundays and public holidays. In this light, the Department has designated three swimming lanes in the indoor training pool as "public coaching area" to divert swimmers.

3.17 During the same period, the Shing Mun Valley Swimming Pool recorded 21 complaints relating to nuisance caused by public coaching activities. LCSD, however, considered that the coaching activities there had little impact on other users. LCSD also stated that the patronage level of the pool was quite high, while the indoor swimming pool there not very spacious. Designating a "public coaching area" at that pool is therefore considered not appropriate.

3.18 Yet, information revealed that the Kennedy Town Swimming Pool and the Shing Mun Valley Swimming Pool recorded rather similar patronage levels in 2018 (at 593,378 and 611,270 respectively). In terms of facilities, the Kennedy Town Swimming Pool is equipped with a 50 metres by 15 metres secondary pool and a 25 metres by 12.5 metres training pool; while the Shing Mun Valley Swimming Pool features a 50 metres by 25 metres indoor main pool, which can be converted into two short pools. The areas of the indoor facilities of these two swimming pools are roughly the same.

3.19 LCSD explained that the number of complaints is not the only factor in determining whether or not to designate a "public coaching area" at individual swimming pools. The deck accesses

between the indoor pools in the Shing Mun Valley Swimming Pool are relatively narrow, congregation of students and coaches would affect operation of the pool or even jeopardise rescue actions there. Besides, the indoor pool would be divided by a bulkhead into a deep zone and a shallow zone (at 2 metres and 1.2 metres respectively) during the daily open hours, and most swimmers tend to stay in the shallow zone. Designation of a "public coaching area" in the shallow zone would reduce the space available to the public and cause inconvenience to them; while setting up a "public coaching area" in the deep zone would have safety implications for learner swimmers. Upon careful examination and assessment, LCSD decided not to designate a "public coaching area" at the swimming pool.

3.20 Anyway, LCSD has indicated that it will review again the effectiveness of "public coaching areas" in regulating coaching activities at public swimming pools. It will collect and gauge the views of swimmers in various districts by way of questionnaires. Besides, it will maintain relevant records and design forms for its staff to systematically record and make observations of coaching activities at swimming pools.

ADVANCE PLANNING OF "PUBLIC COACHING AREAS" IN NEWLY CONSTRUCTED SWIMMING POOLS

3.21 LCSD pointed out that in planning new sports facilities (including public swimming pools) and renovating existing ones, it would refer to the Hong Kong Planning Standards and Guidelines and take other related factors into consideration. Those factors include the overall and district sports facilities provided in the territory, the Government's sports development policy objectives, the utilisation rates of existing facilities, demographic changes, views of district councils, land available, cost-effectiveness and technical feasibility, etc.

3.22 Quite a number of new public swimming pools constructed in recent years are located inside multi-storey complexes, posing

limitations to the number and size of swimming pools. To cater for the needs of general swimmers and learner swimmers, LCSD currently has no plans to designate a "public coaching area" at every newly constructed swimming pool complex. The Department would closely monitor the actual needs and opinions of various stakeholders and review the situation in due course.

IMPROVEMENT PROPOSALS

3.23 LCSD adopts a multi-prong approach to address the problem of nuisance caused by coaching activities to other swimmers at some swimming pools. The approach covers three aspects, namely, increasing the supply of swimming pool facilities; enhancing the "public coaching areas" arrangement; and strengthening the regulation of "public coaching areas". Specific measures would be implemented for meeting and balancing the needs of general swimmers and learner swimmers.

Increasing Supply of Swimming Pool Facilities

3.24 To improve the situation where population increase has led to a shortage of swimming pool facilities in certain districts, LCSD is expediting the construction of three new public swimming pool complexes. Furthermore, in order to relieve the excessive demand for swimming pool facilities during winter, the Government has decided to modify or redevelop three public swimming pool facilities within the next five years with a view to providing more heated swimming pools to ease the current shortage of pool facilities during winter, thereby reducing conflicts between swimmers and minimising complaints.

Enhancing the "Public Coaching Areas" Arrangement

3.25 LCSD stated that although coaching activities at most swimming pool complexes are well-ordered without causing obstruction to other users, the Department will review the current arrangements for "public coaching areas", including the pools, the

sessions and the months for designating such areas, so that pool users can be separated more properly, and the relevant arrangements improved.

Strengthening Regulation for "Public Coaching Areas"

3.26 LCSD would evaluate the coaching activities at various swimming pools to assess whether it should designate a "public coaching area" or implement other management measures at individual pools. The Department has set up a working group for "public coaching areas", which is comprised of representatives of the District Leisure Services Offices and the management staff of swimming pools. They will discuss matters and exchange views relating to "public coaching areas" so as to understand the latest situation and explore ways to improve the management of swimming pools.

4

PUBLIC VIEWS

4.1 We have received a lot of public views on the topic after we announced this direct investigation. They are summarised in the following paragraphs.

NUISANCE TO OTHER SWIMMERS

4.2 The majority of public views considered that problems caused by public coaching activities at public swimming pools were serious. A lot of people said that swimming coaches had failed to restrain the learners, who hence swam randomly and disturbed other swimmers. They considered that LCSD must strengthen its regulatory action to curb those coaching activities that cause nuisance to others.

IMPROPER USE OF PUBLIC SWIMMING POOL RESOURCES

4.3 Others pointed out that a lot of swimming lanes in public swimming pools have already been hired to groups for training/coaching. If LCSD continues to permit coaching activities at the public swimming area, the rights of other swimmers would be jeopardised, resulting in unfairness.

4.4 Some also expressed concern over private coaches who have been charging a high coaching fee from their students, but are allowed to carry out coaching activities at public swimming pools by paying only a normal user fee. This in effect would encourage those

coaches to make money with public resources. They considered that LCSD should prohibit such profit-making activities.

UTILISATION AND MANAGEMENT OF "PUBLIC COACHING AREAS"

4.5 On the other hand, some members of the public asserted that if coaching activities cannot be prohibited, then a "public coaching area" might be set up and all coaching activities must be confined to the area. Nevertheless, they also suggested that users of the "public coaching area" must pay an extra fee lest swimming groups would stop hiring swimming lanes but switch to the "public coaching area" to conduct coaching classes. The order at the "public coaching area" would only worsen should this happen.

4.6 We also received views about the management of "public coaching areas". Some people opined that LCSD should limit the number of users in the area, and specify that a coach should not tutor too many learners simultaneously to prevent possible neglect, thereby putting the safety of their students and other swimmers at jeopardy. Some others considered pre-registration with LCSD be required for coaches who conduct coaching activities at public swimming pools, and only qualified coaches be allowed to give swimming lessons.

4.7 Other members of the public proposed that coaching activities should be restricted to certain sessions of the day to avoid overlapping with the peak hours of swimming pools to reduce nuisance caused to other swimmers. Some said that the "public coaching area" should be set up adjacent to the "public swimming area" to facilitate opening to public use once the "public coaching area" is found to be underutilised.

AUGMENTING PUBLIC SWIMMING POOL RESOURCES IN THE LONG RUN

4.8 Lastly, some people considered that since the public swimming pool resources are insufficient, even though LCSD has tried to separate different groups of swimmers, it could hardly tackle the problem of over-crowdedness of swimming pools at source. In the long run, the public in general considered that the Government should construct more public swimming pools and expand the shallow zone of heated pools and indoor pools (since the shallow zone is more suitable for beginners). This would help ease the problem of swimmers flocking to certain public swimming pools during the winter months.

5

Overall Comments and Recommendations

OVERALL COMMENTS

5.1 Swimming is a very popular sport. LCSD figures show that public swimming pools recorded a patronage level of over 14 million each year between 2017 and 2019, reflecting a very keen demand for such facilities. People go to public swimming pools for different purposes: some for a free and leisurely swim, while others may go there to learn or teach swimming. Scuffles between different types of public swimming pool users are inevitable. This is exactly why effective segregation of different types of swimmers becomes a major issue for LCSD.

5.2 This Office understands that some swimmers are not happy with the coaching activities of learner swimmers at public swimming pools (see **Chapter 4**). On this, LCSD already clearly explained the factors of consideration in allowing coaches (including fee-charging private coaches) to teach swimming at public swimming pools (see **paras. 2.5–2.7**). This Office agrees that a lot of people do need to learn swimming at public swimming pools. LCSD's practice is congruent with its objective and duty of promoting swimming as a sport.

5.3 Yet, permission to carry out coaching activities brings about the task of maintaining order at swimming pools. A number of people told us that coaching activities carried out at public swimming pools had often caused nuisance of varying degrees to other swimmers. Although LCSD can take regulatory action against

such coaching activities pursuant to the Regulation, its records show that complaint cases relating to public coaching activities at public swimming pools have been on the rise since 2016. Apparently, the problem has persisted.

5.4 In summary, this Office considers that there are three areas for improvement in LCSD's regulation of public coaching activities at public swimming pools, as follows.

(I) Need for a Uniform Policy and Mechanism for Designation of "Public Coaching Areas"

5.5 LCSD has emphasised that for the sake of promoting swimming, so long as the coaching activities at public swimming pools are orderly, and not causing nuisance to other swimmers, they would be permitted regardless of whether they are fee-charging or not (see **para. 2.5**). In public swimming pools with a "public coaching area", all types of coaching activities would be confined to that area so that different types of swimmers can be separated and conflicts among them reduced.

5.6 However, for public swimming pools without a "public coaching area", LCSD has refrained from explicitly permitting coaching activities to be carried out in an orderly manner at the "public swimming area" (see **para. 2.10**). This would likely be construed by other swimmers as lax enforcement on the part of LCSD, leading to misunderstanding and even more complaints, and is indeed undesirable.

5.7 Information shows that in the past, LCSD had indeed taken enforcement actions against public coaching activities that caused nuisance or obstruction to others. However, the actions were mainly issuing verbal advice and there was not even one single prosecution (see **para. 3.9**). LCSD asserted that most offenders would cooperate upon advice and cease the nuisance or obstruction. Nevertheless, we notice that the number of complaints relating to public coaching activities has shown an upward trend (see **para. 3.6**). We consider that it is rather difficult to determine whether

coaching activities are causing nuisance or obstruction to other swimmers, or for LCSD to present evidence. Solely relying on pool staff to take enforcement actions (which in fact have largely been verbal advice) under section 4(c) of the Regulation has shown to be ineffective in improving the situation and separating swimmers. It would only perpetuate the problem.

5.8 Given the prevalent view among swimmers that coaching activities at "public swimming areas" would cause nuisance or obstruction to other swimmers, LCSD should proactively consider separating these two types of pool users by designating "public coaching areas". In fact, swimming pools with a "public coaching area" have recorded an obviously smaller increase in complaints about public coaching activities than those pools without one (see **para. 3.6**). Both the Kennedy Town Swimming Pool and the Kwun Tong Swimming Pool saw a decrease in such complaints since the designation of a "public coaching area" (see **para. 3.7**). Evidently, designating a "public coaching area" has helped balance the needs of different types of swimmers.

5.9 On whether a "public coaching area" should be designated at individual public swimming pools, LCSD stated that there is a host of factors for consideration (see **paras. 3.12–3.13**). We appreciate the difference in demographics and utilisation levels of public swimming pools in different districts and that LCSD does need to consider those factors in making the decision. Though reasonable, those factors or criteria tend to be too general. Take the Shing Mun Valley Swimming Pool and the Kennedy Town Swimming Pool in Chapter 3 as examples. LCSD had reached different conclusions on whether to designate a "public coaching area" at these two swimming pools despite their similarities in patronage level, size of facilities and the number of complaints received relating to coaching activities (see **paras. 3.16–3.19**). In the absence of a uniform mechanism and consistent policy, the decision is largely left to the officers-in-charge of individual districts/swimming pools. Members of the public can hardly know the justifications behind the decisions. This may create doubts.

5.10 In this light, we consider that LCSD should seriously contemplate drawing up a uniform and specific policy and mechanism regarding the designation of "public coaching areas". In addition, coaching activities (including fee-charging coaching lessons and coaching given by family and friends) should be confined to the "public coaching area" in order to separate different types of pool users for effectively reducing conflicts or even grapples between general swimmers and participants of coaching activities. Furthermore, a uniform policy on "public coaching areas" can serve as a clear enforcement guideline for frontline pool staff, thereby boosting the effectiveness of regulatory actions against coaching activities at public swimming pools.

5.11 We learned that LCSD has set up a working group for designating "public coaching areas" to facilitate discussions on matters relating to "public coaching areas" (see **para. 3.26**). This Office is of the view that LCSD should study proactively the feasibility of designating a "public coaching area" at more public swimming pools. While a "public coaching area" at each and every public swimming pool would be most desirable, we do understand that not all swimming pools meet the conditions for setting up "public coaching area". Consequently, LCSD should consider designating a "public coaching area" at those swimming pools where coaching activities are more frequent (see **para. 3.2**), or at specific public swimming pools in each district on a trial basis. Announcement and publicity should be made on the arrangement so that participants of coaching activities may be diverted to those specific pools, thereby reducing the nuisance caused to other swimmers. Besides, when planning the construction or redevelopment of public swimming pools, LCSD should proactively assess the need for a "public coaching area" at the swimming pools or in the districts involved, such that early preparations can be made.

5.12 We hope that in the long run, a mechanism for designating "public coaching areas" can help reduce conflicts between participants of coaching activities and other swimmers. Upon designation of a "public coaching area", LCSD should step up

regulation and take decisive enforcement actions once coaching activities outside the “public coaching area” and the “group hiring area” are found to protect the rights of other swimmers.

(II) Need for More Rigorous Management of “Public Coaching Areas”

5.13 At swimming pools with a “public coaching area”, pool staff would require all coaching activities to be carried out in the designated area. However, LCSD has not formulated specific management measures for regulating coaching activities in that area to ensure that they would be carried out in an orderly manner.

5.14 Upon our announcement of this direct investigation, a lot of members of the public sent in their views on the regulation of coaching activities at public swimming pools, and even on the management of “public coaching areas” (see **Chapter 4**). Regarding whether users of “public coaching areas” should be charged an extra fee, we consider that charging a fee would affect those pool users who teach their children swimming, not to mention that some swimmers may decide to use the “public coaching area” for coaching activities only after they have entered the pool. It would, therefore, be impracticable to impose an extra fee on them.

5.15 Yet, we agree that designating a “public coaching area” without imposing certain regulations for using the area for coaching activities may lead to disorder. We consider that LCSD should strengthen the management of “public coaching areas”; otherwise, nuisance caused by public coaching activities would just migrate from the “public swimming area” to the “public coaching area”. This would defeat the original purpose of designating a “public coaching area”, and the other swimmers would suffer in the end.

5.16 That is why LCSD should also lay down specific conditions of use for “public coaching areas” upon their designation. For example, it can impose a maximum on the number of users, or restrict the coach-learner ratio for each coaching session. This Office believes that a restriction on the coach-learner ratio can

prevent some swimming groups from using the "public coaching areas" instead of hiring swimming lanes to conduct swimming classes.

5.17 Furthermore, we consider it sensible to set up "public coaching areas" adjacent to "public swimming areas" (see **para. 4.7**), because it allows flexible deployment of resources by LCSD.

5.18 We believe that formulating specific conditions of use would help maintain order at "public coaching areas". Participants of coaching activities would also have clear rules to follow. The risk of violations and complaints can thus be reduced.

(III) Need for More Proactive Collection and Analysis of Data on Public Coaching Activities

5.19 LCSD currently does not keep record or conduct analysis on coaching activities at public swimming pools in a systematic way. It only relies on observations of the utilisation situation of swimming pools by pool staff during daily patrols, including whether there are coaching activities (see **para. 3.2**). Absence of accurate data would hamper LCSD's assessment of whether and how to designate a "public coaching area" at individual swimming pools and its formulation of appropriate conditions of use.

5.20 We consider that LCSD should be more proactive in the collection and analysis of data relating to public coaching activities at public swimming pools, including the peak periods of such activities, number of participants, pool facilities most frequently used and the modes of coaching activities, etc. We are glad to learn that LCSD will start to maintain such records/devise specific forms for pool staff to record their observations of public coaching activities (see **para. 3.20**).

CONCLUDING REMARKS

5.21 Given the limited resources available in public swimming

pools, designation of a "public coaching area" would inevitably reduce the space available to swimmers. While many people have a genuine need for public swimming pools in order to learn swimming, the complaints and public views we received reflect that a lot of pool users found coaching activities annoying. Hence, if these two types of swimmers are not separated, it would only perpetuate their conflicts and eventually result in a lose-lose situation.

5.22 Under the current mechanism, only groups can apply to LCSD for hiring swimming lanes. Private coaches, therefore, can only conduct coaching lessons at "public swimming areas". Designation of "public coaching areas", in our opinion, can fill this gap under the current mechanism so that public coaching activities can be carried out in an orderly manner. In the long run, LCSD should examine the quantity and distribution of "group hiring areas", "public coaching areas" and "public swimming areas", with a view to setting and adjusting a proper balance to cater for the needs of different swimmers.

RECOMMENDATIONS

5.23 In the light of the above findings, The Ombudsman makes the following four recommendations to LCSD:

(1) to formulate a uniform and specific policy and mechanism regarding the designation of "public coaching areas", and confine coaching activities to such area upon designation in swimming pools for separating different types of pool users (see **para. 5.10**);

(2) to study proactively the feasibility of designating a "public coaching area" at more public swimming pools (including newly constructed or redeveloped ones) (see **para. 5.11**);

(3) to strengthen the management of “public coaching areas” and formulate specific conditions for using those areas for coaching activities (see **para. 5.16**); and

(4) to step up the collection and analysis of data relating to public coaching activities at public swimming pools to facilitate the formulation of a policy and mechanism regarding the designation of “public coaching areas”, as well as management measures for those areas (see **para. 5.20**).

ACKNOWLEDGEMENTS

5.24 The Ombudsman thanks LCSD for its full cooperation during the course of this investigation.

Office of The Ombudsman
Ref: OMB/DI/436
July 2020

Annexes

Annex 1

Notice Samples
Public Coaching Area and Swimming Areas Scheme
at Public Swimming Pool (Main Pool)

Public Coaching Area
公眾授泳區

Group Hiring Area
團體租用區

Public Lap Swimming Area
公眾循環泳區

Public Swimming Area
公眾游泳區

Annex 2

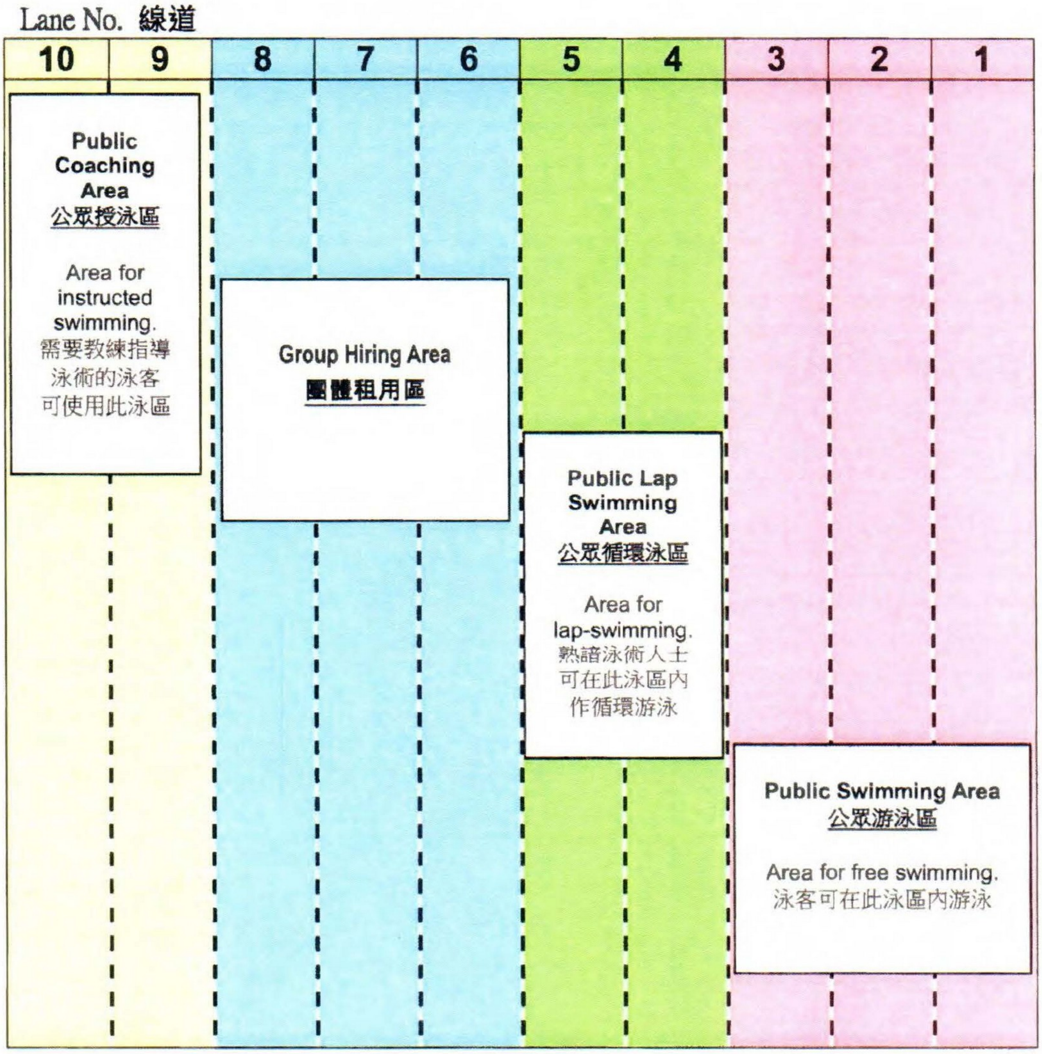
Sample of Scheme of Public Coaching Area and Other Swimming Areas at the 50-metre Main Pool of Public Swimming Pool

公眾游泳池(50公尺主池)公眾授泳區及其他泳區計劃樣本

To better manage the different mode of swimming activities at public swimming pool, this swimming pool implements a Swimming Areas Scheme and swimmers are advised to observe and follow designation of swimming areas below:

為有效管理公眾游泳池內不同形式的游泳活動，本泳池在主池實施泳客分流計劃，泳客請參照及遵守各泳區以下的分佈：

50-Metre Main Pool



Annex 3

Arrangements for Public Swimming Pools with "Public Coaching Area"
(As at 31 July 2019)

Name of swimming pool	Total number of swimming lanes designated as "public coaching area"	Opening sessions
Morrison Hill Swimming Pool	One lane in main pool	July to 10 May of the following year 0630-1200 1300-1800 1700-2200
Victoria Park Swimming Pool	Two lanes in main pool	April to February of the following year 0630-1200 1300-1700 1800-2200
Siu Sai Wan Swimming Pool	Two lanes in training pool	April to October 0630-1200 1300-1700 1800-2200 November to March of the following year 0630-1200 1300-1700 1800-2100
Lai Chi Kok Park Swimming Pool	Two lanes in secondary pool One teaching pool	April to October 0630-1200 1300-1800 1900-2200 November to March of the following year

		(main pool) 0630-1200 1300-1800 1900-2100
Yuen Long Swimming Pool	April to October Mondays to Saturdays - One lane in secondary pool Sundays and public holidays - Two lanes in secondary pool	April to October 0630-1200 1300-1830 1930-2200
Sha Tin Jockey Club Swimming Pool	One lane in secondary pool One teaching pool	16 April to 31 October 0630-1200 1300-1830 1930-2200
Island East Swimming Pool	“Swimming Zone with Buoyancy Aids” - Two lanes in training pool “Swimming Zone without Buoyancy Aids” - Two lanes in training pool Saturdays, Sundays and public holidays - Coaching activities in “Swimming Zone with Buoyancy Aids” only	April to October 0630-1200 1300-1700 1800-2200 November to March of the following year 0630-1200 1300-1700 1800-2100
Kennedy Town Swimming Pool	Three lanes in training pool	“Public coaching area” set up on trial basis between 16 April and

		10 September 2019 when the whole pool is open to public use 0630-1200 1300-1700 1800-2200
Kwun Tong Swimming Pool	Two lanes in teaching pool	“Public coaching area” set up on trial basis between 16 April and 31 October 2019 0630-1200 1300-1700 1800-2200